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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,078	11/07/2001	Mark Oscar Worthington	BT12 00102101(USP)US	4730

7590 10/01/2003
Donald Bollella, Esq.
Legal Department
Burstein Technologies, Inc.
163 Technology Drive
Irvine, CA 92618

EXAMINER

BROWN, KHALED

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,078

Applicant(s)

WORTHINGTON ET AL.

Examiner

Khaled Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margrey et al (US 6192320) in view of Gordon (US 6476907).

Re clms 1,5,7,11,15,19,20: Margrey et al discloses an interactive testing system and method for analyzing biological, chemical and biochemical samples, comprising: a central processing unit for controlling an analytical instrument (Margrey et al Col 4 lines 43-67), Margrey et al also states that the analytical instrument controlled can be any analytical instrument which can be made compatible with a computerized system (Margrey et al Col 10 line 65 - Col 11 line 2) and a means for allowing said central processing unit to communicate over a network (Margrey et al Col 5 line 66- Col 6 line 8 and Col 7 line 3) and that a node is connected with said network, said node is enabled to interact with said central processing unit (Margrey et al, node is "server" Col 9 lines 5-14). However, Margrey et al does not specifically state that the analytical instrument being controlled is a bio-disc drive. Gordon discloses an analytical instrument which is compatible with a computerized system having a bio-disc having a sample (Gordon 50), a bio-disc drive (Gordon Fig 6) and a central processing unit for controlling said bio-disc drive (Gordon 41) which allows analysis of biochemical samples (Gordon Col 1 lines 15-

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18). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the analytical instrument of Gordon in the interactive testing system of Margrey et al because it would allow analysis of biochemical samples as suggested by Gordon (Gordon Col 1 lines 15-18).

Re clms 2,24,26: remotely controlled (Margrey et al Col 9 line 1)

Re clms 3,10: SW on bio-disk (Gordon Col 3 lines 23-30)

Re clms 4,13,17: node verifies authenticity (Margrey et al Col 6 lines 59-62)

Re clm 5: user terminal (Margrey et al Col 6 lines 9-11)

Re clms 8,9,12,18: transmitting information to the server and obtaining test result analysis (Margrey et al Col 6 lines 46-49)

Re clms 14,16,30,32: a web-page (Margrey et al Col 6 lines 2-3)

Re clms 21,22: local device processes (Margrey et al Col 9 lines 5-14)

Re clms 23,25: medical office or home (Margrey et al Col 8 lines 36-39)

Re clm 27: wireless communication (Margrey et al Col 6 line 6)

Re clms 28,31: encryption using TCP/IP (Col 11 lines 19-24)

Re clm 29: Intranet (Margrey et al Col 6 line 4)

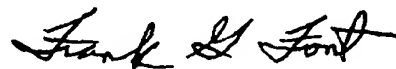
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shenk et al 6560546, Lappe et al 6514461, Gordon 6339473, Gordon 6327031 and Rothberg et al 6231812.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khaled Brown whose telephone number is 703-306-5738. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 703-308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.



KB
August 16, 2003

Frank Font
Supervisory Patent Examiner
Art Unit 2877